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REMARKS

In the Office Action, the Examiner indicated that claims 1, 2, 4-12, and 14-20 are pending in the application and the Examiner rejected all claims.

On August 24, 2005, the Examiner and the undersigned attorney held a telephonic interview to discuss the status of the present application. Applicant thanks the Examiner for his courtesy and assistance in conducting the telephonic interview. In the interview, the applicant explained its position, that is, that the failure to enter the amendment filed on April 15, 2005 was improper and that the amendment should be entered and considered, and a new Office Action issued after consideration of the April 15, 2005 amendment.

Applicant explained its basis for this conclusion as follows:

In the November 16, 2004 Office Action, the Examiner rejected claims 1, 2, 4, 11-12, and 14 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,825,356 to Habib et al. Further, the Examiner rejected claims 5-10 and 15-20 under 35 U.S.C. §103(a) as being unpatentable over Habib in view of U.S. Patent No. 6,734,883 to Wynn et al.

In response to that rejection, applicant amended claim 1 to include the limitations of claims 4 and 5, and amended claim 11 to include the limitations of claims 14 and 15. This amendment removed from consideration the rejection of the claims based solely on Habib, and left remaining the rejection of the claims based on Habib combined with Wynn. In other words, since the substance of claim 5 was included in claim 1, and the substance of claim 15 was included in claim 11, the remaining rejection was only the combined Habib/Wynn rejection.

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Applicant then presented evidence to the Examiner that Wynn was not prior art with respect to the present invention under 35 U.S.C. §103(c). Based upon this evidence, the combined rejection based on Habib and Wynn was no longer proper, and, it is applicant's position that the claims were in allowable condition.

As can be seen, the claim amendments presented in the April 15, 2005 reply narrowed the scope of independent claims 1 and 11 by including limitations previously presented, specifically, limitations found in dependent claims 4 and 5 (with respect to claim 1) and 14 and 15 (with respect to claim 11). Accordingly, the amendment of the claims in this manner did not require further search through any action of the applicant.

Regarding the Wynn reference, applicant also pointed out to the Examiner that in its response filed on August 17, 2004, the applicant pointed out to the Examiner that the Wynn reference, which at that time was being applied as a rejection under 35 U.S.C. §102, would be precluded as a basis for a rejection under 35 U.S.C. §103 under 35 U.S.C. §103(c).

Applicant is requesting that the Examiner enter the amendment filed on April 15, 2005, consider the amendments presented therein, and issue a Notice of Allowance. In the event that the Examiner considers the April 15, 2005 amendment and presents new grounds for rejection of the claims, applicant submits that such an Office Action should be a non-final Office Action.

Further, applicant requests the Examiner to contact the undersigned to discuss possible claim amendments that might overcome any new art which the Examiner may find during any subsequent search, for the purpose of bringing to a close the prosecution of the present application as promptly as possible, as this case has been pending since June 12, 2000.

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Conclusion

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited. The Commissioner is hereby authorized to charge the extension fee and any additional fees associated with this communication to Deposit Account No. 09-0461.

Respectfully submitted

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Date

Mark D. Simpson
Mark D. Simpson, Esquire
Registration No. 32,942

SYNNESTVEDT & LECHNER LLP
2600 ARAMARK Tower
1101 Market Street
Philadelphia, PA 19107
Telephone: (215) 923-4466
Facsimile: (215) 923-2189

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